

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

YOUSSEF BOUGUERBA,

No. 2:20-CV-0957-JAM-DMC-P

Plaintiff,

V.

## ORDER

COUNTY OF SACRAMENTO, et al.,

## Defendants.

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42  
18 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint, ECF No. 1.

1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege  
2 with at least some degree of particularity overt acts by specific defendants which support the  
3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is  
4 impossible for the Court to conduct the screening required by law when the allegations are vague  
5 and conclusory.

6 Plaintiff names as defendants the County of Sacramento and the Rio Cosumnes  
7 Correctional Center, which is a county jail. See ECF No. 1, pg. 1. According to Plaintiff:

8 This lawsuit is in reference to COVID-19 and that the CDC  
9 recommendations are not being met. Social distancing, mask, unclearly  
10 environment and that I am innocent until proven guilty without any  
11 medical testing being done. This is in violation of California Constitution  
article 1 & 6 and being violated especially the 6<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup>  
amendments with due process of law subjecting to cruel and unusual  
punishment.

12 Id. at 3.

13 Municipalities and other local government units, such as the County of  
14 Sacramento and the Rio Cosumnes Correctional Center, are among those “persons” to whom  
15 § 1983 liability applies. See Monell v. Dep’t of Soc. Servs., 436 U.S. 658, 690 (1978). Counties  
16 and municipal government officials are also “persons” for purposes of § 1983. See id. at 691; see also  
17 Thompson v. City of Los Angeles, 885 F.2d 1439, 1443 (9th Cir. 1989). A local  
18 government unit, however, may not be held responsible for the acts of its employees or officials  
19 under a respondeat superior theory of liability. See Bd. of County Comm’rs v. Brown, 520 U.S.  
20 397, 403 (1997). Thus, municipal liability must rest on the actions of the municipality, and not of  
21 the actions of its employees or officers. See id. To assert municipal liability, therefore, the  
22 plaintiff must allege that the constitutional deprivation complained of resulted from a policy or  
23 custom of the municipality. See id. A claim of municipal liability under § 1983 is sufficient to  
24 withstand dismissal even if it is based on nothing more than bare allegations that an individual  
25 defendant’s conduct conformed to official policy, custom, or practice. See Karim-Panahi v. Los  
26 Angeles Police Dep’t, 839 F.2d 621, 624 (9th Cir. 1988).

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1                   Here, Plaintiff has not alleged any specific custom, policy, or practice of either  
2 defendant which resulted in the violations alleged in the complaint. While Plaintiff states that  
3 guidelines promulgated by the Centers for Disease Control and Prevention (CDC) “are not being  
4 met,” Plaintiff does not allege this is due to any custom, policy, or practice of the County of  
5 Sacramento or the Rio Cosumnes Correctional Center.

6                   Because it is possible that the deficiencies identified in this order may be cured by  
7 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire  
8 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is  
9 informed that, as a general rule, an amended complaint supersedes the original complaint. See  
10 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to  
11 amend, all claims alleged in the original complaint which are not alleged in the amended  
12 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if  
13 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make  
14 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be  
15 complete in itself without reference to any prior pleading. See id.

16                   If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the  
17 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See  
18 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how  
19 each named defendant is involved, and must set forth some affirmative link or connection  
20 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d  
21 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

22                   Finally, Plaintiff is warned that failure to file an amended complaint within the  
23 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at  
24 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply  
25 with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).  
26 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Plaintiff's complaint is dismissed with leave to amend; and  
3 2. Plaintiff shall file a first amended complaint within 30 days of the date of  
4 service of this order.

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6 Dated: March 23, 2021

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8 DENNIS M. COTA  
9 UNITED STATES MAGISTRATE JUDGE  
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